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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,862	02/23/2004	Larry D. Owens	23-0340	9447
7590 06/30/2005				
Kaardal & Associates, PC Attn: Ivar M. Kaardal Suite 250 3500 South First Ave. Circle Sioux Falls, SD 57105-5802			EXAMINER GOINS, DAVETTA WOODS	
			ART UNIT 2632	PAPER NUMBER

DATE MAILED: 06/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/784,862	Applicant(s) OWENS, LARRY D.	
	Examiner Davetta W. Goins	Art Unit 2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/23/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

- * Page 15 of the claims includes a paragraph that should be deleted since this is claimed on page 14 in claim 18.

Allowable Subject Matter

1. Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
2. Claim 20 is allowed.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 11, 12 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Mesibov (US Pat. 5,914,660).

In reference to claim 1, Mesibov discloses the claimed motion detection assembly detecting when the child rolls over, which is met by position-sensing transducer 22 used to detect if the

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infant rolls into the side-lying or prone positions (col. 3, lines 31-60), b) the claimed monitoring assembly operationally interacting with the monitor detection assembly providing an indication associated with the motion detected by the motion detection assembly, which is met by remote alarm device 34 activating an alarm to alert the caregiver of the child's state after receiving a signal from transceiver 28 connected to transducer 22 (col. 3, lines 22-60; col. 5, lines 18-32).

In reference to claims 2, 3, Mesibov discloses the claimed coupling assembly for coupling the motion detection assembly to the child, the coupling being wearable by the child, which is met by the transducer 22/40 attached to the child's clothing or held in place by a patch, adhesive, elastic banding or the like (col. 6, lines 33-58).

In reference to claim 4, Mesibov discloses the claimed motion detection assembly including a transmitter assembly for sending a signal associated with the motion detected and the monitoring assembly further comprising a receiver assembly for receiving the signal associated with the motion detected by the motion detection assembly transceiver 28 may comprise of a video device to detect any change of position of the infant and provide a visual display to the remote alarm device 34 (col. 4, lines 28-44; col. 5, lines 9-57).

In reference to claim 5, Mesibov discloses the claimed transmitter assembly being adapted for wireless transmission of the signal and the receiver assembly being adapted for wireless reception of the signal, which is met by position-sensing apparatus 22 detecting movement of the

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infant and transmitting a signal to transceiver 28; transceiver 28 then provides a wireless signal to a remote alarm device 34 (col. 4, lines 28-67; col. 5, lines 1-17).

In reference to claim 6, Mesibov discloses the claimed belt assembly for operationally coupling the monitoring assembly to a user, which is met by transducer 40 attached to the child's clothing or held in place by a patch, adhesive, elastic banding or the like (col. 6, lines 33-58).

In reference to claim 7, Mesibov discloses a) the claimed motion detection assembly, detecting when the child rolls over, the motion detection assembly including a transmitter assembly for sending a signal associated with motion detected, which is met by position-sensing transducer 22 used to detect if the infant rolls into the side-lying or prone positions (col. 3, lines 31-60), b) the claimed coupling assembly for coupling to the child, the coupling assembly comprising a coupling member selected from the group of coupling members consisting of a body suit, a vest, and a belt, which is met by the transducer 40 attached to the child's clothing or held in place by a patch, adhesive, elastic banding or the like (col. 6, lines 33-58), and c) the claimed monitoring assembly operationally interacting with the motion detection assembly, the monitoring assembly providing an indication associated with motion detected by the motion detection assembly; the monitoring assembly further comprising a receiver assembly for receiving the signal associated with motion detected b the motion detection assembly, position-sensing apparatus 22 detecting movement of the infant and transmitting a signal to transceiver 28; transceiver 28 then provides a wireless signal to a remote alarm device 34 (col. 4, lines 28-67; col. 5, lines 1-17).

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In reference to claim 11, Mesibov discloses the claimed transmitter assembly being adapted for wireless transmission of the signal and the receiver assembly being adapted for wireless reception of the signal, which is met by position-sensing apparatus 22 detecting movement of the infant and transmitting a signal to transceiver 28; transceiver 28 then provides a wireless signal to a remote alarm device 34 (col. 4, lines 28-67; col. 5, lines 1-17).

In reference to claim 12, Mesibov discloses the claimed indication associated with motion detected by the motion detecting assembly further comprising an audio alarm, which is met by both alarm device 34 located remote from the transceiver 28 as well as alarm 35 near the crib to give an audible alarm (col. 4, lines 60-67; col. 5, lines 1-17).

In reference to claim 14, Mesibov discloses the claimed coupling assembly for coupling the motion detection assembly to the child, the coupling assembly wearable by the child, the coupling assembly comprising a coupling member selected from the group of coupling members consisting of a body suit, a vest, and a belt, the motion detection assembly including a first transceiver assembly for sending a signal associated with motion detected and receiving signals from the monitoring assembly, and monitoring assembly comprising a second transceiver assembly for receiving the signal associated with motion detected by the motion detection assembly and transmitting signals to the motion detection assembly, which is met by the transducer 22/40 attached to the child's clothing or held in place by a patch, adhesive, elastic banding or the like (col. 6, lines 33-58). The transducer 22/40 is attached to transceiver 28 that

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receives signals from the transducer unit and transmits a wireless signal to a remote alarm device

34 (col. 4, lines 28-67; col. 5, lines 1-17).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13, 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mesibov et al.

In reference to claim 15, although Mesibov does not disclose the claimed microphone operationally coupled to the first transceiver assembly for transmitting a representation of ambient sounds near the child; and a speaker member operationally coupled to the second transceiver for reproducing the representation of ambient sounds near the child, he does disclose the use of a video camera that may be used with the position-sensing apparatus 22 to transmit a signal to a remote monitoring device; the remote monitoring device then emitting visual and audible alarms to indicate an alarm condition detected (col. 4, lines 4, lines 21-67; col. 5, lines 1-9). Since it is well known in the art of monitoring infants from a remote location by use of microphones, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a microphone with the video device of Mesibov, to provide the sound of

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the infant being monitored that may indicate that the infant is still breathing and not suffering from SIDS.

In reference to claim 16, Mesibov discloses the claimed audio alarm, which is met by both alarm device 34 located remote from the transceiver 28 as well as alarm 35 near the crib to give an audible alarm (col. 4, lines 60-67; col. 5, lines 1-17).

In reference to claims 13, 17, although Mesibov does not specifically disclose the claimed reset signal transmitted from the monitoring assembly, he does disclose that the position-sensing assembly 22 detects the position and movement of the child rolling over and then transmitting an alarm to a remote alarm alerting the nurse or caretaker to tend to the infant (col. 3, lines 33-67; col. 4, lines 28-67). Since Mesibov disclose the transmission of an alarm signal to a monitoring assembly, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a reset signal to be transmitted from the monitoring assembly after receiving the alarm signal to reduce the amount of power used by the device after being alerted to an alarm condition.

In reference to claim 18, Mesibov discloses the claimed vibration means operationally coupled to the motion detection means, the vibration means providing a tactile stimulation to the child, which is met by alarm 60 affixed to transducer 22 to provide any of various audible, visual or tactile alarms, or combinations to the infant (col. 5, lines 9-57; col. 6, lines 33-58). Although Mesibov does not specifically disclose the claimed vibration means being actuated by a vibration

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signal transmitted from the second transceiver assembly and received by the first transceiver assembly whereby the user may selectively control the tactile stimulation provided to the child, he does disclose that the alarm 60 attached to the child may function similar to a current pager that can be activated responsive to a signal directly from transceiver 28 or from alarm device 34 by the nurse (col. 5, lines 10-57). Since Mesibov discloses a tactile alarm that can be in various outputs that can be activated by a remote alarm device 34, it would have been obvious to one of ordinary skill in the art at the time of the invention to selectively control tactile stimulation to ensure that the right amount is produced depending on the monitored infant that will ensure that the tactile stimulation will awake the monitored child.

In reference to claim 19, Mesibov discloses the claimed image capture means with a visual display, which is met by transceiver 28 may comprise of a video device to detect any change of position of the infant and provide a visual display to the remote alarm device 34 (col. 4, lines 28-44; col. 5, lines 9-57).

7. The prior art of record and not relied upon is considered pertinent to the applicant's disclosure as follows. Tao (US Pat. 4,862,144), Buschmann (US Pat. 5,241,300), Kim (US Pat. 5,505,199), Beck (US Pat. 5,727,562) and Ketelhohn (US Pat. 6,765,489 B1), which are references that disclose baby monitoring devices.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957.

The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Davetta W. Goins
Primary Examiner
Art Unit 2632



D.W.G.

June 23, 2005